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Policies and Procedures

Title: Interactions with the United States Congress

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This P&P establishes ARS policy and assigns responsibility for legislative contact and for appearing as a witness before Congressional Committees.

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1. Purpose

These Policies and Procedures (P&P) for Legislative Testimony and Contact provide policy for interaction with Members of Congress and reporting requirements when employees are contacted by a Member of Congress, a Congressional office staff member, or a Congressional committee professional staff member.

2. Background

In an effort to clarify and provide uniformity across the agency, the Agricultural Research Service (ARS) has developed Agencywide policy and reporting requirements. This policy is not intended to restrict access, but to delineate and protect employees from failing to comply with lobbying restrictions. This P&P updates the previous version, “Legislative Programs, Reports, and Testimony” dated September 8, 1986 and renames it to “Interactions with the United States Congress”.

3. Policy

The policy is to ensure employees understand the restrictions and processes for interactions with Members of Congress. ARS employees are not allowed to contact a Member of Congress to solicit support for their work, their laboratories or locations, and/or any pending legislation.¹

3.1 Congressional Visits

Congressional visits to ARS locations can highlight the hard work ARS employees do every day, from scientists to technical and administrative support personnel. However, invitations extended by ARS for congressional visits must be coordinated through the ARS Legislative Affairs Advisor. U.S. Department of Agriculture (USDA) Departmental-level clearance will be required in most, if not all, cases where invitations are extended. If Members of Congress or their staff arrive unannounced, ARS employees should conduct a briefing and tour as requested and immediately fill out an ARS-213 form, Report of Congressional Conversation, and submit it to the Area Office. ARS-213 form can be found on the ARS Web site and completed online at www.ars.usda.gov/newla/congressconv.html. While these types of visits are rare, they do happen from time to time. During congressional visits, ARS employees are reminded not to solicit support for their work, their laboratories or locations, and/or any pending legislation.

3.2 Congressional Correspondence

Congressional correspondence, including invitations, must be authorized by and, in many cases, originate from the ARS Office of the Administrator or the USDA, depending on the situation. While in the initial stages of planning for an event that might include participation by a Member of Congress or congressional staff, employees should contact the ARS Legislative Affairs Advisor to coordinate any invitations. In addition, questions from Members of Congress, their staff, or professional staff members from a committee will be

¹ 18 U.S.C. 1913 - Lobbying with appropriated moneys

answered and forwarded to the ARS Legislative Affairs Advisor for final Department-level clearance. Under no circumstance will formal correspondence from ARS employees be sent to Congress without the knowledge or approval of the ARS Legislative Affairs Advisor.

3.3 Congressional Conversation

Many official conversations between ARS employees and Members of Congress, their staffs, and the Congressional Research Service provide important information on congressional interest to the Office of the Administrator. Members of Congress or staff may contact employees directly for information about their programs and/or to solicit their expertise. Employees may respond to these requests directly. However, employees should immediately file an ARS-213 form to let the Area Director, the Legislative Affairs Advisor, the Director of the Budget and Program Management Staff, and the Chief of Staff know of the activity. ARS-213 is found at www.ars.usda.gov/newla/congressconv.html. The form is also available through e-Forms. Any requests for information outside the employee's particular expertise (including questions regarding budget) should be referred to the ARS Legislative Affairs Advisor.

3.4 Testimony before Congressional Committees

When an ARS employee is requested to appear as a witness before a congressional committee, he/she should notify the ARS Legislative Affairs Advisor immediately. The ARS Legislative Affairs Advisor will clear written statements and initial spoken testimony for release to the Committee. ARS employees asked to testify will be required to attend a mock board set up by the ARS Legislative Affairs Advisor and Office of Congressional Relations prior to their actual testimony.

3.5 Reports

Legislative reports are written expression of an official USDA/ARS position on legislation, a proposed bill or draft legislation, an enrolled bill, or another agency's proposed legislation or report to Congress. Because of their subject expertise, ARS employees may be asked to contribute to a report. All reports to Congress will be coordinated by the ARS Legislative Affairs Advisor and transmitted to Congress by the Legislative Affairs Advisor, the Director of the Budget and Program Management Staff, and/or the Chief of Staff after appropriate Departmental-level clearances, if needed.

4. Responsibilities

4.1 Supervisors

- Ensure all direct reports understand the need for compliance with this P&P.
- Communicate to employees that they are required to abide by the provisions of the Anti-Lobbying Act (18 USC 1913) and the Hatch Act (Public Law 76-252, 53 Stat. 1157) as outlined in the USDA ethics training.
- Direct questions to the ARS Legislative Affairs Advisor for further clarification if needed.

4.2 Employees

- Understand and adhere to this P&P.
- Inform supervisor if directly contacted by Members of Congress, congressional office staff members, or congressional committee staff, fill out form ARS-213, and send to the ARS Legislative Affairs Advisor and Area Director. ARS-213 form can be found at www.ars.usda.gov/newla/congressconv.html.
- Work with the ARS Legislative Affairs Advisor, their Supervisor, and their Area Director, if requested to testify before Congress.

4.3 ARS Legislative Affairs Advisor

- Assist ARS employees and advise leadership on appropriate responses and follow-up actions.

5. Authorities

PL 80-772—The Anti-Lobbying Act (18 USC 1913) prohibits the use of appropriated funds for influencing legislation except as specified in the law.

DM-1260—Legislative Reports and Proposals

OMB Circular Number A-19—Legislative Coordination and Clearance

40 CFR 1500-1508 and 7 CFR 3100— This legislation discusses the requirements for environmental assessments and impact statements prepared by an agency regarding legislative proposals.

Civil Rights Impact Analysis DR 4300-4—This Departmental Regulation (DR) may be required for legislative proposals under this policy.

Public Law 76-252, 53 Stat. 1157 (August 2, 1939)—“Hatch Act.”

6. Definitions

Act is legislation that passed both Houses of Congress and has been signed into law by the President.

Advice is information received from the Office of Management and Budget (OMB) stating one of the following:

- Relationship of particular legislation and reports to the President’s program.
- Views of OMB as a staff agency for the President with respect to legislation and reports.

Amendment is a change in a bill or document by adding, subtracting, or deleting portions.

Appropriations Bill is legislation that provides funding for government agencies.

Authorization Bill is legislation establishing or extending a program and setting funding limits and policy.

Enrolled Bill is a bill passed by both Houses of Congress and presented to the President for action.

Legislative Report is any written expression of official USDA position on a proposed bill or draft legislation, an enrolled bill, another agency's proposed legislation or report to Congress, or proposed executive orders and proclamations. Legislative reports serve to initiate discussions about legislation and certain proposed administrative actions and aid the administration in developing a unified position. NOTE: This does not include justifications for appropriations or proposals for reorganization plans.

Marking up a Bill is a process, usually in committee, of analyzing a piece of legislation section-by-section and amending.

Proposed Legislation is a draft bill with supporting documents that is presented to Congress for consideration.

Witness Statement is testimony prepared for presentation before any Committee or Subcommittee of the Congress, with the exception of testimony that will be presented to the Appropriations Committees.

Approved by:

Date of Approval:

Simon Y. Liu
Associate Administrator
